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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/615,987 | 07/10/2003 | Yasuo Miyauchi | 03500.017397 | 1233 |
| 5514 | 7590 | 08/20/2004 | EXAMINER | |
| FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | HSIEH, SHIH WEN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2861 | |

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/615,987 | Applicant(s) MIYAUCHI, YASUO | |
| | Examiner Shih-wen Hsieh | Art Unit 2861 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 7 is/are rejected.
- 7) ☒ Claim(s) 2,3,5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10-2-03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on July 15, 2002. **It is noted, however, that applicant has not filed a certified copy of the foreign priority application as required by 35 U.S.C. 119(b).**

Claim Objections

2. Claims 1 and 5 are objected to because of the following informalities:

In regard to:

Claim 1:

Line 5, please change "the ejection port surface" into "an ejection port surface" to correct a minor lack of antecedent basis problem.

Line 12, please change "the bottom" into "a bottom" or simply "bottom" to correct a minor lack of antecedent basis problem.

Line 20, please change "the entire region" into "an entire region" or simply "entire region" to correct a minor lack of antecedent basis problem.

Claim 5:

Line 4, please change 'the opening end' into "an opening end" to correct a minor lack of antecedent basis problem.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al. (US Pat. No. 6,286,930 B1).

In regard to:

Claim 1:

Kobayshi et al. teaches:

An ink jet recording apparatus for executing recording by ejecting ink from recording means to a recording medium comprising:

a cap (65, figs. 2, 3, 6 and 12b) movable in a direction where it comes into contact with and separated from the ejection port surface of the recording means (7, figs. 1 and 8), for capping the ejection port surface;

an absorbing member chamber (refer to fig. 6, where the cavity is the chamber) disposed to the cap and opened in confrontation with the ejection port surface;

a suction port (84, figs. 3 and 6) formed through the bottom of the absorbing member chamber, refer to col. 8, lines 29-34;

Art Unit: 2861

suction means (14, fig. 1) connected to the suction port, for suctioning the ink in the absorbing member chamber, refer to col. 7, lines 31-36; and

an absorbing member (63 and 64, figs. 3, 6 and 12b) disposed in the absorbing member chamber for absorbing ink, said absorbing member comprising a first absorbing portion (63, fig. 12b) covering approximately the entire region in the absorbing member chamber and a second absorbing portion (64, fig. 12b) in intimate contact with suction port (84, fig. 12b).

Claim 7:

Kobayashi et al. further teach:

wherein the absorbing member chamber has a locking portion (87, fig. 12b) for preventing the first absorbing portion from being removed, refer to col. 8, line 64 to col. 9, line 3 and col. 10, lines 24-29.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al.

Art Unit: 2861

In fig. 3, Kobayashi et al. show the ink absorbing sheets (63 and 64) are two separate sheets.

Therefore the device of Kobayashi et al. DIFFERS from claim 4 in that it does not teach:

wherein the first absorbing portion formed integrally with the second absorbing portion.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to form the second absorbing portion integrally with the first absorbing portion, since it has been held that forming in one piece of an article, which was formerly been formed in two pieces and then put together involves only routine skill in that art, refer to MPEP 2144.04 V B.

Allowable Subject Matter

7. Claims 2, 3, 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

In regard to:

Claims 2 and 3:

Art Unit: 2861

The primary reason for the allowance of claims 2 and 3 is the inclusion of the limitation of the second absorbing portion projects through the bottom of the absorbing member chamber and comes contact with the bottom of the first absorbing portion. It is this limitation found in each of the claims, as they are claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes these claims allowable over the prior art.

Claims 5 and 6:

The primary reason for the allowance of claims 5 and 6 is the inclusion of the limitation of wherein a counterbore portion into (was in to in the original claim) which the second absorbing portion is forcibly inserted is formed in the suction port at the opening end thereof on the bottom of the absorbing member chamber. It is this limitation found in each of the claims, as they are claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes these claims allowable over the prior art.

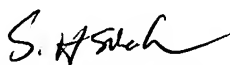
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shih-wen Hsieh whose telephone number is 571-272-2256. The examiner can normally be reached on 7:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S D Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 2861

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SHIH-WEN HSIEH
PRIMARY EXAMINER


Shih-wen Hsieh
Primary Examiner
Art Unit 2861

SWH


Aug., 18, 2004